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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,612	03/08/2002	Chih-Ming Chen		8640

7590

12/30/2004

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EXAMINER

BAHTA, ABRAHAM

ART UNIT

PAPER NUMBER

1775

DATE MAILED: 12/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Appli ation No.

10/092,612

Applicant(s)

CHEN, CHIH-MING

Examiner

Abraham Bahta

Art Unit

1775

-- The MAILING DATE of this communication appears on the cov r she t with the correspond nce address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Figures 3 and 4 include reference characters/numbers 7, 22 and 31; however, the specification does not describe what those numbers represent. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of

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any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fushiya et al (USP 5,206,967) in view of Giddings (USP 6,425,958) and Armbruster (USP 5,289,605) and further in view of Mallory (USP 3,724,017).

Fushiya at col. 2, lines 1-66; col. 3, lines 1-36 and fig. 1 teaches the limitation recited in claim 6 of the subject application except hooks on the lower edge of the cover; a battery for powering the motor and a cover covering the sponge; however providing hooks to housing having a cavity in which a motor is mounted in the cavity is conventional as taught by Giddings '958. See col. 3, lines 35-67. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have provided hooks to the device of Fushiya in order to easily open and close the cavity in which the motor is mounted.

With regard to the limitation the device comprises a battery, providing battery for powering a motor of a surface treating machine such as waxers, polishers, buffers and scrubbers is notoriously well known in the art as shown in USP 5,289,605 to Armbruster. See col. 8 lines 34-39.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized a battery for powering the motor of Fushiya as taught by Armbruster so that the wax applicator may be easily portable.

As to the limitation such that a cover encloses the sponge as recited in claim 6, Mallory '017 teaches a cover secured in a position over a sponging surface in order to protect the sponge of a window-cleaning device. See col. 1, lines 52-56.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a cover to the sponge of Fushihya in order to protect the sponging surface as taught by Mallory.

Regarding the limitation such that the device comprises four rubber members, Fushiya teaches that the supporting members are made of rubber. Although, Fushiya does not specifically mention four rubber members, it is within the judgment of the skilled artisan to provide the desired number of support rubber members to the device of Fushiya depending on the surface area of the base and the pad as a matter of obvious design choice.

Regarding the limitation such that a U-shaped member be utilized to mount the battery; providing a U-shaped member to mount a battery would have been obvious to one skilled in the art, since it has been held to be within the general skill of a worker to select a known fastener on the basis of its suitability for the intended use.

Response to Applicant's Arguments/Remarks

Applicant's arguments filed 09/29/04 have been fully considered but they are not persuasive. The applicant argues the prior art of record (USPs 5,206,967; 5,289,605; 3,724,017) do not teach a waxer comprising an upper cover having a top provided with a switch for controlling power to said waxer, a lower edge of said upper cover being provided with a plurality of hooks; a seat on which is mounted said upper cover, with said hooks engaged with respective recesses of said seat, said seat being formed with a cavity, said seat being provided with an electric socket which is engageable with a power adapter; rechargeable batteries arranged in said cavity by a U-shaped member, an electric motor disposed with said cavity and electrically connected with said rechargeable batteries and said switch, said electric motor being fixedly mounted in said seat by a mounting plate; a base on which is mounted said seat, said base being formed with a circular chamber at a central portion thereof and four tubular portions at four corners thereof; an eccentric block disposed within said circular chamber and eccentrically affixed on an output axle of said electric motor; a sponge affixed to a bottom of said base; and a cover enclosing said sponge; and four tuber members each being a cylindrical member having two conical ends; each of said rubber members having an end fitted in respective one of said tubular potions of said base.

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As discussed above, the Examiner contends claim 6 of the subject application is unpatentable over Fushiya '967 in view of Armbruster '605 and further in view of Mallory .017. In response to applicant's argument that there is not suggestion to combine the references, the Examiner recognizes that references cannot be arbitrarily combined that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is that the combination of disclosers taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosers. *In re Bozek*, 163 USPQ 545 (CCPA) 1969.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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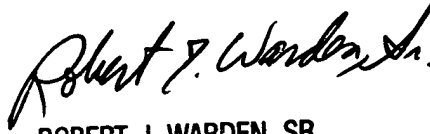
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abraham Bahta whose telephone number is (571) 272-1352. The examiner can normally be reached on Monday - Friday; 11:30 am - 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on (571) 272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


A. Bahta
12/21/04


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